



Informal Hearing Determination

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| Company: | <u>Red River Coal Company, Inc.</u> | Permit No.: | <u>1601576</u> |
| Subject: | <u>NOV# RWH0007147</u> | Violation: | <u>Violations (BR, SS)</u> |
| Conference: | <u>May 10, 2012 at 10 a.m.</u> | Location: | <u>minesite</u> |
| Participants: | <u>Eddie Clapp, Roger Jones (Red River Coal Co.), Wayne Herrell (Area Inspector)</u> | | |

Summary of Informal Hearing

An informal hearing was conducted on May 10, 2012 at the mine site of the permittee Red River Coal Co., Inc. PN 1601576 at 10:00 AM. Present at the hearing were DMME personnel Area Inspector Wayne Herrell and hearings officer Harve Mooney. Representing the company at the hearing were Mr. Eddie Clapp and Mr. Roger Jones. No one from the public attended this hearing.

At issue is the issuance of Notice of Violation RWH0007147, violation 1 of 2, to the operator for failure to backfill and re-grade the Chestnut Cabin Portal area deep mine located in the Dorchester Seam within 60 days after completion of mining as required by the plans contrary to 4 VAC 25-130-773.17(c) of the Virginia Coal Surface Mining Reclamation Regulations. Violation 2 of 2 was issued for failure to maintain Pond H1 by allowing spoil from benching above pond H1 to partially fill the pond and spillway, also the diversion from pond H1 to pond H was in violation of Sections 4 VAC 25-130-816.46(b)(4) and (5) of the Virginia Coal Surface Mining Reclamation Regulations.

Violation 1 of 2

Mr. Eddie Clapp began by stating that the area in question was a deep mine. He stated that the company had stored equipment at the site. The underground mine had ceased mining operations in 2008. Mr. Clapp noted that the company had intended to do the reclamation. The amount of material needed to do the reclamation was approximately one million tons of spoil.

Mr. Clapp noted the material to reclaim the deep mine area was to be generated by the mining operation. Therefore it was necessary to bring in mining equipment to take a cut to generate the spoil to do the reclamation. A minor amount of refuse had been placed in the area, but the bulk of the reclamation would be done with the cut. He noted that equipment had been moved into the area in November. The company was cited for the violation in February, 2012.

Mr. Roger Jones noted that there hadn't been any environmental issues as a result of the alleged violation. He stated all drainage was controlled and any drainage generated would not leave the

pit area of the deep mine portal. Mr. Clapp noted that the necessity of dealing with the deep mine wasn't a high priority and this delayed the operator working on it.

Inspector Wayne Herrell noted possible danger to the public from the unreclaimed portals and highwall. He noted that there was approximately 20 feet of water in the deep mine area and a highwall approximately fifty feet high adjacent to the pit.

Violation 2 of 2

Violation 2 of 2 was issued for failure to maintain Pond H1 by allowing spoil from benching above pond H1 to partially fill the pond and spillway as well as the diversion from pond H1 to pond H in violation of Sections 4 VAC 25-130-816.46(b)(4) and (5) of the Virginia Coal Surface Mining Reclamation Regulations. Mr. Roger Jones began by noting that the discharge from Pond H1 was not an NPDES outfall. He noted that the Pond H1 was in series with Pond H, and there was no effluent problem associated with the violation. Mr. Clapp stated there was no environmental damage as a result of the material in the pond or the associated diversion.

Inspector Wayne Herrell noted that the company had attempted a cut above the basin to generate material to fill the mine portal. The result was material blocking the pond and the diversion. Mr. Herrell noted he had commented in the inspection report that there was no environmental damage as a result of the violation. However, the problem was that you cannot remove a structure without approval or **not** maintain a structure.

Informal Hearing Recommendation

Following the informal hearing of May 10, 2012, I informed Mr. Clapp and Mr. Jones I would need additional time to review the plans and revisions related to the standards addressed. I also noted the procedures to request a formal hearing. I reviewed the detailed plans and applicable revisions pertaining to the circumstances surrounding the issuance of violations 1 and 2 of 2 of NOV RWH0007147, as well as the applicable reclamation regulations, procedures, and guidelines. I concluded my review and evaluation on May 17, 2012.

Notice of Violation RWH0007147 violation 1 of 2 was issued to the operator for failure to backfill and re-grade the Chestnut Cabin Portal area deep mine located in the Dorchester Seam within 60 days after completion of mining as required by the plans. A review of the approved permit plans noted that, in the original application under section 3.1- General Operation Plan, the Chestnut Cabin Mine portal would be reclaimed within 60 days of completion of the deep mining. Since the operation had not completed the reclamation as of the date of the inspection on February 16, 2012, he was in violation of his approved plan as well as 4 VAC 25 130-816/17.102 of the Virginia Coal Surface Mining Reclamation Regulations. Therefore, Violation 1 of 2 of NOV RWH0007147 is affirmed.

Notice of Violation RWH0007147 violation 2 of 2 was issued to the operator for failure to maintain Pond H1 by allowing spoil from benching above pond H1 to partially fill the pond and

spillway as well as the diversion from pond H1 to pond H. Section 4VAC25-130-816.46 of the Virginia Coal Surface Mining Reclamation Regulations addresses the general performance standards for siltation structures. Specifically, Section 4VAC25-130-816.46 (b) (4) states,

(4) Any siltation structure which impounds water shall be designed, constructed and maintained in accordance with 4VAC25-130-816.49.

In addition, Section 4VAC25-130-816.46 (b) (5) states,

(5) Siltation structures shall be maintained until removal is authorized by the division and the disturbed area has been stabilized and revegetated. In no case shall the structure be removed sooner than two years after the last augmented seeding.

While the operator had an obligation to reclaim the deep mine area, his actions resulted in the violation of Section 4VAC25-130-816.46 when he failed to maintain Pond H1 and its associated diversion by removing any material that had encroached into these structures. Therefore, Violation 2 of 2 of NOV RWH0007147 is affirmed.

Conference Officer: Harve A Mooney
Harve A. Mooney

Date: May 10, 2012